

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CITYNET, LLC, on behalf
of the United States of America,

Plaintiff/Relator,

v.

FRONTIER WEST VIRGINIA INC., a
West Virginia Corporation, **KENNETH
ARNDT**, individually, **DANA WALDO**,
individually, **MARK McKENZIE**,
individually, **KELLY GOES**, individually,
JIMMY GIANATO, individually, and
GALE GIVEN, individually,

Defendants.

Civil Action No.: 2-14-CV-15947

Judge Copenhaver

FRONTIER DEFENDANTS' MOTION TO DISMISS

Defendants Frontier West Virginia Inc. ("Frontier"), Kenneth Arndt, Dana Waldo, and Mark McKenzie (together, "the Frontier Defendants"), by counsel, respectfully submit this Motion to Dismiss Citynet LLC's ("Citynet") First Amended Qui Tam Complaint ("Amended Complaint") pursuant to Federal Rule of Civil Procedure 12(b)(6).

As described in Frontier Defendants' Memorandum of Law in Support, filed contemporaneously herewith and incorporated herein: two of relator Citynet's claims (Counts I and V) are subject to dismissal under the False Claims Act's public disclosure bar; Counts I through VIII should be dismissed for Citynet's failure to state a claim under the False Claims Act; and Count IX should be dismissed for both failure to state a claim and for failure to plead sufficient facts to satisfy the plausibility standard and Rule 9(b)'s particularity standard. Thus, the Court should dismiss all counts pursuant to Rule 12(b)(6).

Accordingly, for the reasons set forth in the Memorandum in Support, the Frontier Defendants respectfully request that the Court grant this Motion and order that the Amended Complaint be dismissed.

Respectfully submitted,

DEFENDANTS FRONTIER WEST VIRGINIA INC.,
KENNETH ARNDT, DANA WALDO, and MARK
McKENZIE

By counsel,

/s/ J. David Fenwick

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CERTIFICATE OF SERVICE

I, J. David Fenwick, hereby certify that on the 23rd of August, 2016, I electronically filed the foregoing **Frontier Defendants' Motion to Dismiss** with the Clerk of the Court upon counsel of record via one or more of the following methods: (1) electronic notification through the Court's CM/ECF system, and/or (2) depositing true copies in the U.S. Mail, postage prepaid, addressed as follows:

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